

REMARKS/ARGUMENTS

The Examiner states that the inventions of Groups I and II are related as process of making and product made under M.P.E.P. § 806.05(f) and that the product, as claimed, can be made by another and materially different process, such as a process where a single crystal diamond is formed heteroepitaxially on a single crystal substrate instead of homoepitaxially on a diamond substrate.

However, the Examiner has provided no reasons to support the assertion that a single crystal diamond having a surface substantially free of surface defects, as is formed by a process of homoepitaxially growing diamond on a diamond substrate, can be arrived at by the process of attempting to form a single crystal diamond heteroepitaxially on a single crystal substrate. Therefore, it is submitted that the requirements of M.P.E.P. § 806.05(f) have not been met and it is requested that the claims of Groups I and II be rejoined and examined in the present application.

Further, Applicants traverse the Restriction Requirement on the grounds that thousands of U.S. patents have issued in which many more than two subclasses have been searched and the Patent and Trademark Office cannot reasonably assert that a burden exists in searching only two subclasses.

Accordingly, for the reasons presented above, it is submitted that the Patent and Trademark Office has failed to meet the burden necessary to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Roland E. Martin
Registration No. 48,082

NFO:REM:mtm